

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Giansante	Team: Squad #8	CCRB Case #: 201800882	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 01/20/2018 3:03 AM	Location of Incident: West 127th Street and Frederick Douglass Boulevard	Precinct: 32	18 Mo. SOL 7/20/2019	EO SOL 7/20/2019	
Date/Time CV Reported Sat, 01/20/2018 5:39 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/01/2018 12:41 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Nicholas Marino	19738	958874	PSA 6
2. POM Willie Thompson	15823	958120	PSA 6
3. Officers			032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Roman Diaz	07893	955881	PSA 6

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Marino	Force: Police Officer Nicholas Marino used physical force against § 87(2)(b)	
B.POM Willie Thompson	Force: Police Officer Willie Thompson struck § 87(2)(b) with an asp.	
C.POM Nicholas Marino	Force: Police Officer Nicholas Marino used physical force against § 87(2)(b)	
D.POM Willie Thompson	Force: Police Officer Willie Thompson used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F.POM Willie Thompson	Force: Police Officer Willie Thompson struck § 87(2)(b) with an asp.	
G.POM Willie Thompson	Force: Police Officer Willie Thompson used physical force against § 87(2)(b)	
H.POM Willie Thompson	Force: Police Officer Willie Thompson used physical force against § 87(2)(b)	
I.POM Nicholas Marino	Abuse: Police Officer Nicholas Marino threatened to arrest § 87(2)(b)	
J. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	
K. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	

Case Summary

On January 20, 2018, Rev. § 87(2)(b) filed this complaint by phone with IAB on behalf of § 87(2)(b) and § 87(2)(b) generating original log number 2018-2731. The CCRB received the complaint on February 1, 2018.

On January 20, 2018, at approximately 3:03 a.m., § 87(2)(b) and § 87(2)(b) were at the intersection of Frederick Douglass Boulevard and West 127th Street in Manhattan. Police Officers Willie Thompson, Nicholas Marino, and Roman Diaz, all of PSA 6, stopped their unmarked vehicle at the intersection. § 87(2)(b) mistook it for a taxi and attempted to enter it. After rebuffing § 87(2)(b) the officers drove through the intersection and stopped again. § 87(2)(b) approached the vehicle and struck PO Thompson in the face. The officers exited the vehicle and attempted to arrest § 87(2)(b) but § 87(2)(b) ran over and attempted to separate the officers from § 87(2)(b). PO Marino punched § 87(2)(b) multiple times (**Allegation A: Force, § 87(2)(g)**). PO Thompson struck § 87(2)(b) multiple times with his asp (**Allegation B: Force, § 87(2)(g)**). PO Marino, and allegedly also PO Thompson, took § 87(2)(b) to the ground (**Allegations C-D: Force, § 87(2)(g)**). PO Marino punched § 87(2)(b) again (**Allegation A**). PO Thompson collapsed his asp and struck § 87(2)(b) with it again (**Allegation B**). Officers allegedly took § 87(2)(b) to the ground again (**Allegation E: Force, § 87(2)(g)**). PO Thompson allegedly struck § 87(2)(b) again multiple times with his asp (**Allegation F: Force, § 87(2)(g)**). PO Thompson allegedly held § 87(2)(b)'s head down and rubbed his face against the ground (**Allegation G: Force, § 87(2)(g)**). PO Thompson allegedly punched § 87(2)(b) in the face after lodging him in a vehicle (**Allegation H: Force, § 87(2)(g)**). PO Marino and other uniformed officers threatened to arrest § 87(2)(b) (**Allegations I-J: Abuse of Authority, § 87(2)(g)**). Officers also spoke discourteously to § 87(2)(b) (**Allegation K: Discourtesy, § 87(2)(g)**).

The investigation obtained cellphone footage of the incident which was filmed by § 87(2)(b) (BR01). The investigation also obtained surveillance footage from two nearby cameras (BR02; BR03).

Findings and Recommendations

- **Allegation (A) Physical Force: Police Officer Nicholas Marino used physical force against § 87(2)(b)**
- **Allegation (B) Physical Force: Police Officer Willie Thompson struck § 87(2)(b) with an asp.**
- **Allegation (C) Physical Force: Police Officer Nicholas Marino used physical force against § 87(2)(b)**
- **Allegation (D) Physical Force: Police Officer Willie Thompson used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) and § 87(2)(b) consumed alcohol in the hours before the incident. It is also undisputed that § 87(2)(b) was standing in the street on Frederick Douglass Boulevard attempting to hail a cab, and that he mistook the officers' unmarked RMP for a taxi and opened its rear door. The officers told him the vehicle was not a taxi, and they drove to the south side of the intersection before stopping again to attempt to speak to § 87(2)(b). § 87(2)(b) was also standing in the street. § 87(2)(b) suddenly ran toward the passenger side of the vehicle. § 87(2)(b) heard the commotion and turned to see an officer grabbing § 87(2)(b). § 87(2)(b) ran to the altercation and attempted to physically separate the officers from § 87(2)(b).

§ 87(2)(b) The investigation obtained surveillance footage showing this portion of the incident. SnagIt #1 (BR04) and SnagIt #2 (BR05) are embedded below:



201800882_20180625_1805_DM.mp4



201800882_20180625_1809_DM.mp4

It is further undisputed that, in response to § 87(2)(b)'s attempts to separate the officers from § 87(2)(b) PO Marino punched § 87(2)(b) and PO Thompson struck him with an asp. It is also undisputed that § 87(2)(b) was brought to the ground, and that PO Marino punched him again and PO Thompson struck him with the asp again once he was on the ground. This portion of the incident, in which the officers strike § 87(2)(b) while he is on the ground, can be seen in SnagIt #3 (BR06), taken from § 87(2)(b)'s cellphone footage and embedded below:



2018-06-25_18-12-13.mp4

§ 87(2)(b) provided a phone statement and an in-person statement to the CCRB (BR07; BR08). In both, he recounted that he, § 87(2)(b) and § 87(2)(b) had spent the night of January 19 and the early morning of January 20 playing card games and board games at the residence of another friend. § 87(2)(b) admitted that he consumed alcohol during this time, but maintained that he drank no more than “one cup of red wine sangria.” § 87(2)(b) and § 87(2)(b) consumed more alcohol than § 87(2)(b) and had been drinking already when he first met them on Friday night. § 87(2)(b) denied that he or any of his cousins was intoxicated at the time of the incident.

However, § 87(2)(b) could recall only that the incident began sometime between 3a.m. and 5 a.m. Similarly, while viewing GoogleMaps StreetView images during his in-person interview, § 87(2)(b) had difficulty recalling the correct location of the incident, and even claimed at one point that it took place at a completely different intersection. He ultimately said that he still was not certain of the exact intersection, because the incident was “still blurry to [him].” § 87(2)(b) also noted that, while PO Marino and PO Thompson can be heard in the video footage telling him to stop resisting and to put his arms behind his back, he did not actually recall hearing those orders and only learned of them once he viewed the footage.

§ 87(2)(b) recounted that one of the officers merely told him, “We’re not a cab,” when he opened the door of the RMP. § 87(2)(b) also recounted hearing § 87(2)(b) say something to the effect of, “Oh, you don’t want to stop for a black person?” to the officers when they pulled away from § 87(2)(b).

§ 87(2)(b) claimed not to have seen how the physical struggle between § 87(2)(b) and the officers began, and he did not turn to look until all the officers had already exited the RMP. He admitted that he saw an officer grabbing § 87(2)(b) and that he immediately ran toward the altercation. He ran past at least one officer to reach § 87(2)(b) and he touched both § 87(2)(b) and an officer in attempting to separate them. He said something to the effect of, “Chill out guys” or “Calm down guys.” § 87(2)(b) insisted that, at this point, he had no idea that the officers were actually police officers, and that he merely thought he was breaking up an altercation between § 87(2)(b) and a group of civilians.

§ 87(2)(b) recounted that § 87(2)(b) later told him that the officers had exited the RMP and rushed him for no apparent reason. § 87(2)(b) denied to § 87(2)(b) that he had struck any of the officers. At some point during the incident, § 87(2)(b) heard § 87(2)(b) protest that he had not hit anyone, and PO Thompson insisted that § 87(2)(b) had struck him.

As soon as § 87(2)(b) inserted himself into the struggle, PO Marino punched him once on the forehead. § 87(2)(b) drawing upon his training as a boxer, immediately assumed a defensive stance in which he tucked his chin down, held his fists up directly in front of his face, and kept his forearms vertical and together. § 87(2)(b) estimated that PO Marino swung at him about ten times. Some of these punches connected with § 87(2)(b)'s arms, but none struck his face. § 87(2)(b)'s vision was largely blocked at this point due to his defensive stance.

At the same time as PO Marino punched § 87(2)(b) PO Thompson began striking him with an asp on the upper back and shoulders. § 87(2)(b) estimated that PO Thompson struck him with the asp about ten times. § 87(2)(b) kept his arms and fists up to block PO Marino's punches. § 87(2)(b) was "feeling adrenaline," and he thought the officers were going to kill him. He did not move his feet, spin around, or change position. He denied that he ever grabbed any of the officers or attempted to strike them.

§ 87(2)(b) denied that any of the officers said anything to him or issued him any orders during this time. He also denied that any of them ever identified himself as an officer.

§ 87(2)(b) recounted that, within 15 seconds of his having entered the physical altercation, PO Marino and PO Thompson both grabbed him and pushed him to the ground. He came down on his front but did not strike his face on the ground. PO Thompson struck § 87(2)(b) with the asp at least ten more times on his back and side. § 87(2)(b) covered his face with his fists and rolled onto his left side. He attempted to roll away from PO Thompson. He also began forming his fingers into "W" signs while saying, "Tupac. Westside." § 87(2)(b) described this as a habit he has developed as a boxer in order to strengthen his resolve when he is being beaten.

As previously mentioned, § 87(2)(b) denied during the interview that the officers were issuing any orders to him once he was on the ground. However, he later acknowledged that the video footage shows that the officers were issuing him orders, and he explained that he had no recollection of this because he was "facedown" at the time.

§ 87(2)(b) fell asleep after being lodged in a cell at the stationhouse, but upon awaking, he requested medical attention for his injuries. § 87(2)(b) claimed that he sustained lacerations, abrasions, and contusions to his face, contusions all over his torso, and cuts on his hands and knees. He later specified that he was bleeding from an abrasion on the left side of his face, that he had a raised "knot" on his left cheekbone, that he had a cut on his left lower back, and that he had a bruise on his left upper back. He specified that the bleeding on the left side of his face was caused by an officer pushing his face against the ground, and not as a result of the punches and asp strikes at issue here.

§ 87(2)(b)'s arrest photograph shows some patches of redness on his face, though some of these appear to be acne-related (BR09). The MTPR for § 87(2)(b) states that he complained of pain to his face and shoulder (BR10). Photos taken of § 87(2)(b) after his arrest, which were attached to the relevant TRI report, appear to show the same patches of redness on the left side of his face (BR11). In these photos, § 87(2)(b) again displayed his fingers in the shape of a "W." The TRI report indicates that § 87(2)(b) sustained contusions on his face. § 87(2)(b) provided photos of his face which he shot two days after the incident, and which show what appear to be healing abrasions above and below his left eye (BR12).

Officers transported § 87(2)(b) to § 87(2)(b). His records from § 87(2)(b) show that he complained of pain to the left side of his face and to the back of his right shoulder (see Privileged Documents). He reported that he was struck with a baton and punched. He also later complained of abrasions to his left wrist and left index finger. A physical examination showed that he had abrasions on the left side of his face, and that his right shoulder was tender to

palpation. His examination was otherwise unremarkable. A CT scan of his face and X-rays of his chest showed no sign of injury. His injuries were described as “minor.” He declined pain medication, but was given ibuprofen anyway.

Three days after the incident, § 87(2)(b) went to § 87(2)(b). During his CCRB interview, § 87(2)(b) claimed that he had been slurring his words, “forgetting things,” and was “out of it,” and that he went to the hospital to be examined for a concussion. His records from § 87(2)(b) show that he complained of a headache, bruising to his face and back, and generalized aches throughout his body (see Privileged Documents). He falsely claimed to hospital staff that no imaging of his body had been done during his previous visit to § 87(2)(b), and he said that he wanted medical documentation because he felt he sustained injuries due to his encounter with the police. A physical examination noted “altered pigmentation” on § 87(2)(b)s left cheek, but it was unclear if this was new or a chronic condition. The exam was otherwise unremarkable, and it revealed no swelling or redness. § 87(2)(b) was diagnosed with a contusion and discharged.

The investigation made numerous attempts to contact § 87(2)(b) but he never responded. The investigation also made numerous attempts to obtain a statement from § 87(2)(b) and the undersigned eventually even traveled to § 87(2)(b)s place of employment to interview him. However, § 87(2)(b) appeared nearly an hour late for that interview, and then said he did not have enough time to do the interview that day. § 87(2)(b) then stopped responding to contact attempts. As a result, the investigation was unable to obtain a statement from him.

The investigation obtained phone statements from two bystanders who called 911 to report the incident (BR13; BR14). However, the bystanders’ statements were vague, and in some respects they were not consistent with the more reliable evidence obtained by the investigation. As a result, the bystanders’ statements did not aid the investigation.

PO Thompson recounted that, when § 87(2)(b) opened the RMP’s door, one of the officers told him either that the officers were police or that the vehicle was a police vehicle (BR15). § 87(2)(b) was slurring his words and smelled of alcohol. The officers tried to instruct § 87(2)(b) to take care of § 87(2)(b) as he was standing in the street, and they stopped their RMP again to see whether the men would get out of the street. At this point, § 87(2)(b) ran to the front passenger door, opened it (as it was unlocked at the time), and immediately began striking the right side of PO Thompson’s face with a closed fist. PO Marino and PO Diaz exited the RMP and pulled § 87(2)(b) away. PO Thompson exited, and all three officers attempted to restrain § 87(2)(b) so they could handcuff him. The officers said, “Police,” and instructed § 87(2)(b) to put his hands behind his back. PO Thompson later smelled alcohol on § 87(2)(b) breath at the stationhouse.

§ 87(2)(b) pushed PO Thompson and PO Marino away from § 87(2)(b) and may have said something like, “That’s my friend.” At this point, PO Thompson turned his attention to § 87(2)(b) and said, “Put your hands behind your back. You’re under arrest too.” PO Thompson and PO Marino tried to grab § 87(2)(b) but § 87(2)(b) struggled against their efforts by flailing and stiffening his arms. § 87(2)(b) continually tried to pull his arms to the front of his body. Almost immediately, PO Thompson drew his asp and began striking § 87(2)(b) on his legs, lower body, and arms. PO Thompson could not recall how many times he struck § 87(2)(b) but thought it was probably at least five times.

PO Thompson chose to use his asp because the officers had already been attempting to subdue § 87(2)(b) when § 87(2)(b) intervened, and § 87(2)(b) then resisted the officers’ attempts to restrain him. PO Thompson felt the asp would be more effective than his fists, and he

intended to use it to force § 87(2)(b) to get on the ground. PO Thompson repeatedly ordered § 87(2)(b) to “get on the ground.” § 87(2)(b) turned around once PO Thompson began striking him, and moved his arms in an apparent attempt to protect his head, even though PO Thompson was not striking him about the head. PO Marino continued trying to grab § 87(2)(b).

During this time, PO Thompson could see that PO Diaz was struggling to hold § 87(2)(b) against the RMP, as § 87(2)(b) was resisting and trying to flee.

PO Thompson could not recall how § 87(2)(b) came to be on the ground, and he denied using a forcible takedown against him. Once on the ground, § 87(2)(b) continued to refuse to put his hands behind his back. § 87(2)(b) was lying on his side, and PO Thompson straddled him. PO Thompson repeatedly ordered § 87(2)(b) to put his hands behind his back, and he tried to grab § 87(2)(b) with his left hand while maintaining his grip on the asp in his right hand. PO Thompson then collapsed the asp against the ground, and began striking § 87(2)(b)'s arm and the front of his torso with his right fist as it held the collapsed asp. PO Marino made a request for immediate assistance over the radio, and then walked away to aid PO Diaz and to handle the emerging crowd of bystanders. PO Thompson remained straddling § 87(2)(b) who was not trying to get up. PO Thompson did not use any additional force against § 87(2)(b) after this point, and uniformed officers arrived on scene and helped him to handcuff § 87(2)(b).

In a conversation at the stationhouse, § 87(2)(b) and § 87(2)(b) told PO Thompson that they had not realized the officers were police officers. § 87(2)(b) explained that he had attacked PO Thompson because he thought the officers were refusing to give him and § 87(2)(b) a taxi ride.

PO Thompson sustained swelling on his head from being punched by § 87(2)(b) and he accompanied PO Marino to the hospital immediately after the incident, but he did not receive additional medical treatment. He completed a TRI report noting that he was the victim of a “hand strike,” and that he suffered minor swelling, contusions, and substantial pain (BR11).

PO Marino’s account was largely consistent with that of PO Thompson, though he specified that the officers merely told § 87(2)(b) that they were not a taxi when he opened the RMP door (BR23). PO Marino felt § 87(2)(b) push him from behind when § 87(2)(b) entered the physical altercation, and he saw § 87(2)(b) push or lunge at PO Thompson. He did not recall hearing § 87(2)(b) say anything at this point. At this point, PO Marino did not know § 87(2)(b)'s intentions, especially as § 87(2)(b) had just attacked PO Thompson for no apparent reason. He thought that § 87(2)(b) and § 87(2)(b) may have been trying to “jump” the officers.

PO Marino saw PO Thompson strike § 87(2)(b) with the asp about his back and shoulder, and he confirmed that PO Thompson repeatedly told § 87(2)(b) to stop resisting. PO Marino attempted to punch § 87(2)(b) in the face a few times, but he was not sure if any of the strikes actually hit their target. PO Marino tried to punch § 87(2)(b) because he perceived him to be a physical threat, especially in light of the totality of the circumstances, and he wanted to gain control of the situation before § 87(2)(b) had the chance to do anything else. PO Marino did not issue any orders to § 87(2)(b) at this point.

§ 87(2)(b) then came toward PO Marino, and he was leant forward such that his arms were toward PO Marino’s legs. PO Marino feared that § 87(2)(b) might try to make him fall backward, so he used § 87(2)(b)'s momentum and took him to the ground in a directed fashion. PO Marino believed the entire altercation lasted only a few seconds before he took § 87(2)(b) to the ground. § 87(2)(b) came down on his back. PO Thompson repeatedly told him to stop resisting. PO Marino punched § 87(2)(b) once more on his forehead. At this time, § 87(2)(b)

was resisting by moving his arms around so the officers could not grab them. § 87(2)(b) also made the “W” signs with his fingers, which PO Marino interpreted as “gang signs.” PO Marino denied seeing PO Thompson strike § 87(2)(b) with the asp once he was on the ground.

PO Diaz’s account was largely consistent with those of his partners (BR16). He confirmed that he merely told § 87(2)(b) “It’s not an Uber. It’s not a cab,” when § 87(2)(b) opened the RMP door. PO Diaz also recounted that, after the officers drove away from § 87(2)(b) they stopped again and PO Thompson called out to § 87(2)(b) “Get back on the sidewalk or you’re going to get hit.” PO Thompson did so because the officers were concerned that § 87(2)(b) and § 87(2)(b) who seemed to be stumbling and unsteady on their feet, would be hit by traffic.

PO Diaz did not actually see § 87(2)(b) enter the physical altercation, nor did he see the force his partners used against § 87(2)(b) because he had grabbed § 87(2)(b) and pushed him into the passenger seat of the RMP. At this point, PO Diaz told § 87(2)(b) “We’re police. You just assaulted a police officer. What are you trying to do?” § 87(2)(b) said, “I didn’t know. I’m sorry. I have warrants. Please let me go.” § 87(2)(b) continued to try to evade PO Diaz’s grasp, and PO Diaz dealt with him throughout the rest of the incident. PO Diaz did not see the force used by his partners to subdue § 87(2)(b)

§ 87(2)(g)

- **Allegation (E) Physical Force: Officers used physical force against § 87(2)(b) with an asp.**
Allegation (F) Physical Force: Police Officer Willie Thompson struck § 87(2)(b) with an asp.

In his phone statement, § 87(2)(b) initially claimed that the officers took him to the ground, that PO Thompson continued to strike him with an asp even after his hands were behind his back, and that officers then cuffed him and lodged him in a vehicle. However, he later made confusing statements regarding this portion of the incident. He now claimed that PO Thompson and PO Marino left him on the ground but did not handcuff him, and that he was “getting back to [his] feet” when additional officers arrived on scene. He recounted, “I remember being slammed again, so I vaguely remember this because, like, I’ve been kind of forgetting things recently. I vaguely remember me getting back up and then being slammed again.” § 87(2)(b) now said that he thought that uniformed officers “slammed” him to the ground a second time before he was handcuffed.

When pressed to state whether or not he actually was taken to the ground a second time, § 87(2)(b) replied, “I vaguely remember that. I could have stayed on the floor to be honest with you, but I just remember me getting my face slammed to the ground. So they either tried to lift me up and threw me over, or I got up and they threw me over.” § 87(2)(b) admitted that he could not actually recall whether he got back to his feet again after PO Thompson and PO Marino took him to the ground. When asked to explain why he could not recall this one specific portion of the incident, § 87(2)(b) said that he was “kind of off” and “slurring” his words since the incident. However, he also insisted that there was no other portion of the incident which he could not recall.

At his in-person interview, § 87(2)(b) again made vague claims regarding his allegedly being taken to the ground again. Initially, he claimed that he was taken to the ground a second time, but had difficulty recalling how it happened. He recounted, “I vaguely remember getting back up to my feet. I’m not sure. Cause I just remember getting turned over and my head slammed to the ground. So whether I got—they picked me back up, or they slammed me, or the backup and I was standing up, and they slammed me. And that’s what I think happened. I think they both backed up, the two guys that had me, they both backed up when the backup came, and when I stood back up, the backup slammed me to the ground. That’s what I’m believing. But I just remember getting my face slammed to the ground. Still being hit while I was on the ground. My hands being put behind my back and handcuffed. And then I got put in the back of a police car.”

§ 87(2)(b) later confirmed that he recalled getting “slammed” to the ground a second time, but said, “[I’m] not sure if I stood back up or how that happened.” When asked to describe what he actually recalled, he said, “I was standing up and, like, I remember, like, two officers backing up, like, looking weird.” He confirmed that he was referring to PO Thompson and PO Marino, and said that one of them had a wide-eyed, “shocked” look on his face. He recounted, “I literally saw the look in his eyes, and then I got slammed.” § 87(2)(b) confirmed that he definitely came to a standing position after being taken down to the ground the first time, but he could not recall how he came to be standing up again. He said, “They could have pulled me up and slammed me back down. And backed up, and then I was on the floor looking at him. But I just remember seeing him and seeing that look in his eyes. Seeing that shocked look in his eyes.”

§ 87(2)(b) estimated that one minute passed between when he was first taken to the ground and when he was taken down a second time. He did not know if uniformed or plainclothes

officers took him to the ground on the second occasion. He did not know how many officers took him down, but said it felt like seven officers were around him. When asked to describe how the officers took him to the ground, he could only say that they “just slammed” him down. He said that they pushed him down again, as PO Thompson and PO Marino had done on the first occasion.

Once § 87(2)(b) was taken to the ground a second time, he was lying facedown on the ground. In addition, § 87(2)(b) now claimed that PO Thompson struck him another 5-10 times with the asp “all over” his back. At this time, uniformed officers were telling § 87(2)(b) “Put your hands behind your back. Put your hands behind your back. You’re under arrest.” § 87(2)(b) was then placed in handcuffs.

As previously mentioned, PO Thompson recounted that he remained straddling § 87(2)(b) on the ground, and denied that he used any additional force against § 87(2)(b) after this point. Additional uniformed officers arrived and aided PO Thompson in handcuffing § 87(2)(b) on the ground. § 87(2)(b) resisted briefly before giving up and allowing the officers to pull his hands behind his back. PO Thompson explicitly denied that § 87(2)(b) was ever brought to a standing position again before being handcuffed, and denied that § 87(2)(b) was ever taken to the ground a second time.

PO Marino recounted that, once the uniformed officers arrived, he stepped away from PO Thompson and § 87(2)(b). He did not see how officers placed § 87(2)(b) in handcuffs. He denied seeing officers bring § 87(2)(b) to a standing position and then take him to the ground a second time. Similarly, PO Diaz did not see how § 87(2)(b) was handcuffed, as he was struggling with and handcuffing § 87(2)(b) at the time. He denied seeing officers take § 87(2)(b) to the ground a second time.

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

- **Allegation (G) Physical Force: Police Officer Willie Thompson used physical force against § 87(2)(b)**

In his phone statement, § 87(2)(b) only alleged that he his face was “slammed to the ground.” In his in-person statement, however, he alleged that an officer used additional force against him once he was taken to the ground a second time. § 87(2)(b) recounted that an officer grabbed the back of his head such that the left side of his face was against the ground, and that the officer moved his head around such that the left side of his face was abraded by the pavement. § 87(2)(b) specified that the abrasions on the left side of his face were caused by this use of force, and not by his face striking the ground when he was taken down.

Although § 87(2)(b) could not see which officer used the alleged force against him, the investigation named PO Thompson as the subject officer because he was the main officer who remained atop § 87(2)(b) to handcuff him.

PO Thompson denied that he or any other officer rubbed § 87(2)(b)'s face against the ground. As previously mentioned, PO Thompson denied that any additional force was used against § 87(2)(b) while handcuffing him.

§ 87(2)(g)

- **Allegation (H) Physical Force: Police Officer Willie Thompson used physical force against**

§ 87(2)(b)

In his phone statement, § 87(2)(b) briefly mentioned that an officer punched him in the face after he was lodged in the backseat of a police vehicle. In his in-person statement, § 87(2)(b) recounted that a uniformed officer brought him to a marked vehicle and sat him in the backseat. § 87(2)(b) was lying across the backseat at first, but he sat up and was then punched once on the right side of his face. § 87(2)(b) did not see the officer who punched him, and could not say if the officer was dressed in plainclothes or in uniform. As previously explained, § 87(2)(b) did not claim to have sustained any injury to the right side of his face, and no such injury was found during his medical examinations.

PO Thompson recounted that he was the officer who escorted § 87(2)(b) to a vehicle and lodged him inside. PO Thompson closed the vehicle's door after he lodged § 87(2)(b) inside, and he did not recall seeing any officer open the door afterward. PO Thompson denied that he punched § 87(2)(b) inside the RMP, and he denied seeing any other officer do so.

§ 87(2)(g)

- **Allegation (I) Abuse of Authority: Police Officer Nicholas Marino threatened to arrest**

§ 87(2)(b)

Allegation (J) Abuse of Authority: Officers threatened to arrest § 87(2)(b)

Allegation (K) Discourtesy: Officers spoke discourteously to § 87(2)(b)

§ 87(2)(b)'s cellphone footage shows that he first approached PO Thompson and PO Marino as they struggled with § 87(2)(b) on the ground and yelled at them to calm down. He then approached PO Diaz, who was struggling to hold § 87(2)(b) against a vehicle so he could not

flee, and also yelled at him. § 87(2)(b)'s phone then dropped to the ground twice in quick succession, and much of the footage is completely black, largely obstructed, or only shows the pavement. However, during this time, multiple male voices can be heard telling § 87(2)(b) that he will be arrested if he does not back up. Voices can also be heard using iterations of the word "fuck." This portion of the footage can be seen in SnagIt #4 (BR18) embedded below:



2018-06-27_15-21-03.mp4

As previously mentioned, despite numerous attempts, the investigation was unable to obtain a statement from § 87(2)(b). § 87(2)(b) did not make any statements regarding this portion of the incident.

PO Marino recounted that PO Thompson repeatedly ordered § 87(2)(b) to back up when § 87(2)(b) approached the ongoing struggle with § 87(2)(b). Once additional officers arrived, PO Marino stepped away from § 87(2)(b) and saw that uniformed officers were trying to grab § 87(2)(b)'s arms. PO Marino concluded that the officers intended to arrest § 87(2)(b). He thought the uniformed officers were doing so because § 87(2)(b) was standing so close to the ongoing incident. PO Marino intervened and told the uniformed officers that he did not consider § 87(2)(b) a threat. PO Marino then asked § 87(2)(b) to move back, and told him that he would get arrested if he did not move back. § 87(2)(b) complied and backed up. PO Marino and § 87(2)(b) were standing in the street at the time at the time PO Marino instructed him to back up. PO Marino told § 87(2)(b) that he would get arrested because the uniformed officers had already almost arrested him, and because he thought § 87(2)(b) could have been arrested for OGA if he did not comply with the orders to move away from the incident. PO Marino did not recall hearing other officers threaten to arrest § 87(2)(b).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties. § 87(2)(b)
- PO Nicholas Marino has been a member of service for two years and this is the first CCRB complaint to which he has been a subject (see officer history).
- PO Willie Thompson has been a member of service for three years and has been a subject in one prior CCRB complaint with five allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.

- On June 21, 2018, the undersigned requested a copy of any Notice of Claim filed with the NYC Comptroller's office regarding the incident. As of the date of this report, no response has been received. The response will be added to the case file upon receipt.
- § 87(2)(b) [REDACTED]
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]

Squad No.: 8

Investigator:	_____	<u>Inv. Daniel Giansante</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date